

Raymond Stemp Associates

Planning and Development Consultants

e-Newsletter

May 2009

Appeal Case

Backland housing scheme allowed

RSA acted on behalf of the Appellants, Lamaid Homes, following the refusal of planning permission for the erection of 5 bungalows and 1 two storey house, together with the construction of a new access at 1-2 and land rear of 3-5 Holland Road, Kirby Cross. The scheme was designed by Architectural Building Services Ltd.

The Inspector, Mr Stuart Hall, in allowing the appeal concluded that the proposals, although in part a backland development, would leave the character and appearance of its surroundings substantially unharmed.

With regard to noise and disturbance, outlook and privacy the Inspector concluded that the appeal scheme would maintain living conditions at standards that would meet the reasonable expectations of occupiers in a relatively quiet suburban area.

What is of great interest in this appeal decision is the Inspectors observations relating to the Council's policy regarding financial contributions to be sought towards public open space provision in relation to housing sites of less than 1.5 hectares where existing provision is inadequate.

At the hearing, the Council confirmed that there are no existing or potential sites within reasonable walking distance of the appeal site where equipped play provision could be made. No explanation of the impact that the new households would have on other facilities in the wider area was given and no approved program of works within



which the use of the intended contribution could be identified. As the local need physically cannot be met, the Inspector concluded that such shortcomings would not justify the withholding of planning permission.

The Inspector raised other issues relating to the Council's monitoring fee which is required for all applications for new housing development. The Inspector stated that circular 05/05 advises that where provision is intended for wider public use, the recurrent expenditure should normally be borne by the Council.

In addition, the Inspector concluded that as there was no evidence of a geographical or functional link between the appeal scheme and the payment offered, the undertaking would appear to fail the test that the benefit accruing from it must be directly related to the proposed development.

RSA comments - In the light of the Inspectors observations relating to the monitoring fee it is hoped that the Council will reconsider its position and cease requiring this fee. In addition, the Council needs to demonstrate that where an obligation is sought the benefits occurring from the financial payment directly relate to the proposed

Tending Council ordered to pay costs

Arising out of the above appeal, RSA made an application for an award of costs.

The planning application was originally refused for highway reasons although the District Council consulted the County Highway Officer who raised no objections. The Council informed the Appellant that it was withdrawing the highway objection, four days after the Appellant had completed the appeal statement and on the same day as the Council submitted its statement.

The Inspector concluded that it was unreasonable for the Council to delay informing the Appellant until the last moment. The lack of an objection by the Highway Authority had been known since before the application was determined by the Council.

In addition, the Inspector concluded that the evidence demonstrated that there was no prospect of the required contribution being expended locally in a manner directly related to the needs arising from the proposed development. The Inspector concluded that the thrust of the Council's justification for requiring

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the obligation appeared to be based on custom, without due regard to the circumstances of the case and concluded that the Council's submission in relation to this reason for refusal did not amount to substantive evidential support.

He also concluded that the Council's case did not demonstrate why it took a decision contrary to the professional advice and failed to produce relevant supporting evidence.

The Inspector stated that the failure of the Council to do so amounted to unreasonable behaviour, which gave rise to the Appellant's need to appeal. He therefore ordered Tendring District Council to pay the Appellant the cost of the appeal proceedings.

London Plan Review under way

London Mayor Boris Johnson has published his views on the spatial strategy review which will shape development over the next 20 years.

New policies are outlined to improve access to jobs, housing and transportation as the population of London increases to over 9 million by 2031.

Highlighted are measures to encourage economic development across the whole city, acknowledging the contribution that outer London can make to the capital in overall economic success.

The mayor stressed that the new look Spatial Plan will also address the need to adopt to climate change, and plan for low carbon development and greater use of green energy.

A full draft of the new London Plan will be published for public consultation in the Autumn 2009. It will then be submitted to a examination public. The Inspector will report to the Mayor in the Spring on 2011 and the final version of the new London Plan will be published in the Winter of 2011/2012.



Newark and Sherwood strategic housing land availability assessment



NEWARK &
SHERWOOD
DISTRICT COUNCIL

The Council has published a draft S.H.L.A.A to provide evidence for the LDF and to demonstrate a 5, 10 and 15 year housing lands supply. The report identifies and assess potential sites which are then considered against a variety of criteria and planning considerations.

The study has identified 207 units. However, although a site is identified it is not binding on any future recommendation which may be made to the Council or any formal decision of the Council.

The consultation period close on the 29th May 2009. if you would like RSA to comment on your behalf on any site, or to provide further information on a site please do not hesitate to contact us.

Circular 02/2009: Consultation Direction

This directive, which came into force on the 20th April 2009 requires LPA's to consult the Secretary of State before granting planning permission for certain types of development. The purpose of the directive is to give the Secretary of State an opportunity to consider whether to exercise for call-in powers.

The direction applies to any application for planning permission which is for Green Belt development, development outside town centres, World Heritage site development, playing field development or flood risk area development.

Green Belt development means the provision of a building/buildings where the floor space created would be 1,000 square metres or more or any other development which by reason of its scale, nature and location would leave a significant impact on the Green Belt.

Flood Risk area development means major development in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussion with the LPA.

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